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VENANGO COUNTY COURT OF COMMON PLEAS

Exhibit 35a

COMMONWEALTH OF PENNSYLVANIA

VS.

C.P.# 182/1998 & 183/1998

CHARGE(S): FORGERY

THEFT BY DECEPTION

EDWARD JOSEPH MCNATT

SUPERIOR COURT # \_\_\_\_\_ VENCO \_\_\_\_\_ # \_\_\_\_\_

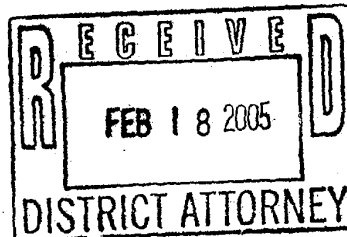
NOTICE OF APPEAL

Notice is hereby given that Edward Joseph McNatt, above named, hereby appeals to the Superior Court of Pennsylvania from the Sentence entered in this matter. Defendants habeas corpus is Deemed Denied by Operation of Law.

*Edward Joseph McNatt*  
Defendant

Notice of Appeal and Proof of Service served upon the following:

Venango County Dist. Atty's. Ofc.  
Judge, Oliver J. Lobaugh  
Court Administrator



I hereby certify that I am this day serving the foregoing notice of Appeal upon the persons and in the manner indicated below, which service satisfies the requirements of Pa.R.A.P. 122:

HONORABLE: OLIVER J. LOBAUGH  
VENANGO COUNTY COURTHOUSE  
FRANKLIN, PA 16323

DISTRICT ATTORNEY'S OFFICE  
VENANGO COUNTY COURTHOUSE  
FRANKLIN, PA 16323

COURT ADMINISTRATOR  
VENANGO COUNTY COURTHOUSE  
FRANKLIN, PA 16323

In accordance with Pa.R.A.P. 1911 (Order for Transcript) a Notice of Appeal having been filed in this matter the official court reporter is hereby ordered to produce, certify and file the transcript in this matter in conformity with Rule 1922.

Edward J. McNatt  
Edward J. McNatt/Defendant  
DL-6772  
P.O. Box 1000  
Houtzdale, PA 16698

DATE: Feb. 14, 2005

NOTE: Under 18 Pa.C.S.A. # 4904 (Unsworn Falsification to Authorities), a knowingly false proof of service constitutes a misdemeanor of the second degree.

SERVICE BY FIRST CLASS MAIL

TO THE HONORABLE, THE JUDGES OF THE SAID COURT:

Appellant, Edward Joseph McNatt, pro se, complains of the following matters on appeal:

1. On October 20, 1998, appellant was charged with forgery (docket 182/1998) and theft by deception (docket 183/1998). After informing counsel that appellant did not forge the checks in Venango County but submitted them, counsel informed appellant that, it did not matter where the checks were forged, the fact that the checks were submitted in Venango County, constituted a forgery charge. Appellant is claiming double jeopardy because he was already charged and convicted with all of the checks by the Lackawanna County Court. The offense date of the forgery docket is July 14, 1997.

2. Docket 183/1998 that appellant was forced to plead guilty too is an illegal sentence because appellant was incarcerated at the time of the alleged crime. The offense date of docket 183/1998 is August 1997 and appellant was incarcerated in the Lackawanna County Prison on July 20, 1997. The exact date of appellant's crime can be verified by the date written on the submitted forged checks in Venango County. Under the Pa.R.Cr.P., if the exact offense date is known, it must be listed on the complaint which would verify that appellant could not of committed any crime listed on docket 183/1998.

3. Appellant's plea was unlawfully induced when counsel informed him that if appellant did not plead guilty, he would be found guilty by a jury and sentenced to 30 years imprisonment.

4. Appellant alleges prosecutorial misconduct when prosecutor was aware that appellant was incarcerated prior to the offense at docket 183/1998.

5. Appellant submits that his charges were a single criminal episode, not separated by any lawful behavior. The date of the submitted forged checks in Venango County started the same day as the forgery in Lackawanna County.

6. Appellant argues that counsel was ineffective for failing to file any appeals on his behalf as requested and forcing appellant to lose his appellate rights.

Case 1:05-cv-00126-SUM-SPB Document 12-10 Filed 08/12/2005 Page 5 of 10  
7. Appellant argues that counsel, refusing to produce any paperwork to him regarding this alleged crime, was a manifest injustice and did not give appellant the opportunity to show that he was incarcerated at the time the alleged docket at 183/1998 occurred. Appellant was led to believe that the theft by deception was from the real crime of docket 182/1998.

8. The complete charges on docket 183/1998 were, bad checks, theft by deception and receiving stolen property. Appellant argues that he never had his own checking account and could not of submitted any bad checks in Venango County. Appellant also argues that he could not of committed alleged crimes because appellants crimes occurred the three days prior to the docket dated July 14, 1997 (182/1998).

9. Due Process of law under the Pennsylvania and United States Constitution would be offended by the fundamentally unfair result of the unlawfully induced plea, absolute innocence, prosecutors misconduct and appellant's guaranteed right not to be twice placed in jeopardy of life or limb.

10. Appellant seeking to vacate sentence is entitled to evidentiary hearing on his claim if he alleges fact that, if proven, would entitle him to relief.

11. Appellant respectfully requests that permission be granted to supplement this Concise Statement of Matters Complained of on Appeal, if necessary, when the notes from the relevant proceedings are obtained.

12. Appellant respectfully requests this Honorable Court to grant him this Appeal and order an evidentiary hearing.

Edmund J. McPartt  
Appellant, pro se

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COMMONWEALTH OF PENNSYLVANIA

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VS.

:

: No. CP182/1998 &amp; CP183/1998

:

EDWARD JOSEPH MCNATT

:

APPLICATION FOR AN IMMEDIATE HEARING ON  
THE PENDING PETITION FOR WRIT OF  
HABEAS CORPUS

TO THE HONORABLE, THE PRESIDENT JUDGE AND JUDGES OF VENANGO COUNTY:

Petitioner, Edward Joseph McNatt, pro se, hereby moves for an immediate hearing on his pending Petition For Writ of Habeas Corpus, and represents:

1. Petitioner has an appeal pending before this Court from his judgement of of sentence for forgery and theft by deception.
2. Petitioner has filed a Petition for Writ of Habeas Corpus with this Court seeking justice on absolute innocence and double jeopardy violations.
3. Over 120 days has elapsed without Petitioner receiving any information or date for an evidentiary hearing.
4. Petitioner is arguing absolute innocence, double jeopardy, prosecutorial misconduct, ineffective assistance of counsel and crime(s) being a single criminal episode.

WHEREFORE, for each of the foregoing reasons, it is requested that this Court grant an immediate hearing on the pending "Petition for Writ of Habeas Corpus."

CLERK OF COURTS  
PROTHONOTARY AND  
PEGGY L. MILLER

2005 FEB 28 A 10:56

FILED  
COMMON PLEAS COURT  
VENANGO COUNTY, PA

Respectfully Submitted,

*Edward J. McNatt*  
Edward J. McNatt, (pro se)

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*Exhibit 37*

The Superior Court of Pennsylvania  
Office of the Prothonotary

GRANT BUILDING  
310 GRANT STREET, SUITE 600  
PITTSBURGH, PA 15219-2297

DAVID A. SZEWCZAK, ESQUIRE  
PROTHONOTARY

ELEANOR R. VALECKO  
DEPUTY PROTHONOTARY

(412) 565-7592

FAX: (412) 565-7711

WEBSITE: [www.superior.pacourts.us](http://www.superior.pacourts.us)

February 16, 2005

Peggy Miller, Clerk of Courts  
Court House  
1168 Liberty Street  
Franklin, Pa. 16323

In Re: Commonwealth v Edward McNatt  
No. 182/1998 & 183/1998

Dear Ms. Miller:

Pursuant to Pa.R.A.P. 751(a), we are forwarding the appeal received in the above-captioned matter to your office.

Very truly yours,

A handwritten signature in cursive script that reads "Eleanor R. Valecko".

DEPUTY PROTHONOTARY

ERV/smc

Cc: Edward Joseph McNatt

FILED  
COMMON PLEAS COURT  
VENANGO COUNTY, PA  
2005 FEB 18 A 9:58  
PEGGY L. MILLER  
PROTHONOTARY AND  
CLERK OF COURTS

38

Peggy Miller-Prothonotary  
Venango County Courthouse  
Liberty Street  
Franklin, PA 16323

Edward J. McNatt  
DL-6772  
P.O. Box 1000  
Houtzdale, PA 16698

March 16, 2005

Dear Mrs. Miller:

Find enclosed my Praecipe for Entry of Order. Over 120 days has elapsed and nothing has been heard, nor has any hearing been granted. The Pa.R.A.P. states that Habeas Corpus Motions filed with the Court must be decided within 20 days. In order for me to pursue my appeal and civil suit in the higher Court, I must first, have the Order denying my Habeas Corpus Petition.

Kindly enter the Order in this case, deeming my Petition, Denied by Operation of Law.

Thank you for your time and concern on this matter. I look forward to hearing from you soon.

Respectfully Submitted,

Edward J. McNatt  
Edward J. McNatt

c.c: file

FILED  
COMMON PLEAS COURT  
VENANGO COUNTY, PA  
2005 MAR 21 P 4:08  
PEGGY L. MILLER  
PROTHONOTARY AND  
CLERK OF COURTS

COMMONWEALTH OF PENNSYLVANIA

VS.

EDWARD JOSEPH MCNATT

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:  
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:  
:

: No. CP182/1998 &amp; CP183/1998

## PRAECIPE FOR ENTRY OF ORDER

Edward Joseph McNatt, petitioner's Habeas Corpus Motion, under the above captioned number requires prompt attention and represents a situation requiring a formal entry of an order filed in this Court which will have the effect of a formal appealable order pursuant to Pennsylvania's Rule of Appellate Procedure, Rule 301(e); Commonwealth v. Gordon, 438 Pa.S 166, 652 A.2d 317 (1974).

Petitioner hereby requests that this Praecipe for Entry of an Order be filed and docketed accordingly.

Respectfully Submitted;

  
Edward Joseph McNatt

Dated: March 16, 2005

FILED  
COMMON PLEAS COURT  
VENANGO COUNTY, PA  
2005 MAR 21 P 4: 08  
PEGGY L. MILLER  
PROTHONOTARY AND  
CLERK OF COURTS

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Carole E. Hutchison  
Court Administrator  
Venango Co. Courthouse  
Franklin, PA 16323

APR 17 2005  
DH 6772  
P.O. Box 1000  
Houtzdale, PA 16698

April 4, 2005

RE: CP182-1998, & CP183-1998

Dear Mrs. Hutchison:

I have the following Motions/Petitions pending in your Court:

- 1) P.C.R.A. Filed 7-28-2004;
- 2) Petition for Writ of Habeas Corpus, Filed 10-12-2004;
- 3) Application For Immediate Hearing on Pending Writ of Habeas Corpus, Filed 3-01-2005;
- 4) Motion to remove William Cisek, esq. as Counsel, Submitted Feb, 2005, but never Filed; and
- 5) Petition For Appeal, remanded back to Peggy Miller from the Superior Court on 02-16-2005, but never Filed.

Would you kindly tell me, when, any of the above titled Motions/Petitions are scheduled for hearing? IF there are no scheduled dates, could you please tell me why?

Thank you for your time and concern on this matter.

I look forward to hearing from you soon.

Respectfully Submitted,

Edward McNatt

C.C. Gary Hutchison

Sue Smith

Larry Horn

Peggy Miller

File

Dear Mrs. Smith:

4-4-05

I find enclosed a correct copy of my letter to the Court Administrator, trying to find out what is going on with my motions filed in your Court, that are being ignored.

Respectfully Submitted,

Edward McNatt

